IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No.1032/2005

Decided on.29.6.2007

Jeet Singh **…Petitioner**

Versus

State of H.P. & others. **…Respondents**

Coram

The Hon'ble Mr. Rajiv Sharma, J.

Whether approved for reporting ?[1]*. No.*

For the petitioner : Mr. Kul Bhushan Khajuria, Advocate.

For the respondents **Mr. M.S. Chandel, Advocate General, M.A. Khan and Ms. Meenakashi Sharma, Deputy Advocate Generals for the respondents No. 1 to 4.**

Mr. Neeraj Maniktala, Advocate for the respondents No. 5 & 6.

Rajiv Sharma, J.

The brief facts which can be gathered from the pleadings of the parties are that the land of the uncle of the petitioner Nidhia son of Mohnu, resident of Mohal Palahi, Pargana Tryodi, Tehsil and District Chamba was acquired vide award dated 25.6.1993. The respondent-corporation had agreed in the State Level Relief and Rehabilitation Advisory Committee dated 6.7.1985 to provide employment to 700 members of the effected families but the corporation could only provide employment to 508 persons/families during the year 1985-86 onwards. The Corporation subsequently had agreed to provide financial package @ Rs. 3.00 lakh to remaining 192 effected families. A decision was taken by the state Level Committee on 22.2.2000 whereby a list of 192 families was prepared on

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[1] ***Whether the reporters of Local Papers may be allowed to see the judgment***? No.

the basis of the applications received from the left out affected families. The name of the petitioner's uncle figures at Sr. No. 42 of the tentative list of identified 192 eligible families. The list of 192 families was finalized which was duly approved by the State Government for payment of financial package i.e. Rs. 3.00 lac in lieu of employment. The name of the petitioner's uncle was entered at Sr. No. 35 of the final list. The petitioner inherited the landed property of his uncle Sh. Nidhiya by way of will and the mutation was attested vide mutation No. 399. Sh. Nidhiya was directed by the Deputy Commissioner, Chamba to complete the codal formalities vide letter dated 5th October, 2004. The petitioner on the basis of the letter dated 5th October, 2004 had completed the codal formalities and had apprised the Deputy Commissioner of the same on 21.10.2004. Despite the petitioner's uncle name figuring at Sr. No. 42 in the draft list of 192 effected families and at Sr. No. 35 of the final list of 192 families, a sum of Rs. 3.00 lac was not released in his favour.

Mr. Kul Bhushan Khajuria, advocate appearing on behalf of the petitioner had strenuously argued that his client had stepped into the shoes of his uncle Sh. Nidhiya on the basis of will, whose land was acquired vide award dated 25.6.1993. He had further submitted that the necessary mutation was attested on 25.3.2003.

The learned Deputy Advocate General had strenuously contended that since Nidhiya had died issueless, the petitioner could not be granted any financial package.

Mr. Neeraj Maniktala, Advocate appearing on behalf of respondent -corporation had apprised the Court that a sum of Rs. 8.76 crore has already been deposited with the State Government.

I have heard the parties and perused the record.

Admittedly the land of the petitioner's uncle late Sh. Nidhiya measuring 1-6-16 bigha was acquired vide award dated 25.6.1993. The petitioner had inherited the property of late Shri Nidhiya by way of will and the necessary mutation was sanctioned on 25.3.2005. The name of the petitioner's uncle figures at Sr. No. 42 of the draft list of the effected families pursuant to which decision was taken in the State Level Meeting. The list was revised and the name of the petitioner's uncle figured at Sr. 35. His uncle had been directed vide communication dated 5.4.2004 to complete the codal formalities. The codal formalities were completed by the petitioner and thereafter he had also apprised the Deputy Commissioner vide communication dated 21.10.2004.

It appears that the committee had deleted the name of the petitioner's uncle on the ground that the petitioner's father Sh. Chamaru had been granted the package. The name of Shri Chamaru figures at Sr. No. 36 of the draft list identifying 192 eligible families. Sh. Nidhiya had independent right to get the financial package and it was on that basis that his name figures in the draft list of 192 eligible families at Sr. 35, the petitioner had inherited the property of late Sh. Nidhiya by way of will and the mutation was sanctioned on 25.3.2003. The object of the financial package was to pay compensation to the persons whose land had been acquired. Admittedly, the land of Shri Nidhiya had been acquired vide award dated 25.6.1993. The stand of the State that since the petitioner's father has been granted the financial package, he is not entitled to the same, is unsustainable. The State could not deny the benefits of financial package to the issueless land owners whose lands have been acquired by the persons the like petitioner by way of inheritance.

Accordingly the writ petition is allowed. The respondents are directed to release the financial package in favour of the petitioner. There shall be no order as to costs.

(Rajiv Sharma), Judge

July, 2007
Awasthi